IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.1064 OF 2006

Shri Dharappa Bhimrao Savale .. ..Petitioner

Versus

1.State of Maharashtra and Ors. .. ..Respondents

WITH

WRIT PETITION NO.1065 OF 2006

Shri Kashinath Patil Ganpatrao Patil ..Petitioner

Versus

1.State of Maharashtra and Ors. .. ..Respondents

WITH

WRIT PETITION NO.1066 OF 2006

Shri Aktare Shivaji Tayappa .. ..Petitioner

Versus

1.State of Maharashtra and Ors. .. ..Respondents

WITH

WRIT PETITION NO.1073 OF 2006

Shri Shivappa Sultan Poojari .. ..Petitioner

Versus

1.State of Maharashtra and Ors. .. ..Respondents

Mr.Amit Borkar with V.V.Purwant for petitioners in all petitions

Mr.Deepak Patil, AGP for respondent in all petitions

CORAM : P.V.KAKADE, J.

DATE : 23RD MARCH, 2006.

P.C.:

1. All these four petitions can be disposed of by this common order as the issue involved therein is the same.

2. Heard the learned counsel for both the parties. Perused the record.

3. Rule, rule made returnable forthwith by consent.

4. The Petitioners were appointed in their capacity as Head Master/Shikshan Sevak and Asstt. Teacher in Respondent no.5 School. The appointments were made with certain conditions including the condition of the appointment of the petitioners was that they had to appear and get through the D.Ed correspondence course. On 2.6.2000 the Government of Maharashtra issued Resolution clarifying that all those teachers who were appointed prior to 25th November, 1997 were permitted to do D.Ed correspondence course. Thereafter on 11.7.2000 the State Government issued another resolution confirming the resolution dated 2.6.2000.

5. Accordingly, the respondent no.5 forwarded the applications form of the petitioners for appearing for the D.Ed correspondence course to respondent no.2. However, the petitioners were held ineligible to appear for D.Ed correspondence course by respondent no.2 though similarly situated teachers were permitted to appear for D.Ed. course on the ground that the matters filed by B.Ed. and other equally qualified teachers are pending before the High Court and for other reasons. Hence aggrieved by the said decision the petitions are preferred.

6. On perusal of the GRs dated 2.6.2000 as well as 11.7.2000, it is clear that initially the permission was

granted for appearance for D.Ed. correspondence course on certain conditions including Condition No.6 in GR dated 2.6.2000 to the effect that the proposal for seeking permission should be forwarded for approval to the Regional Officer of the Department before 5.11.1997. However, by subsequent clarifying resolution dated 11.7.2000 the said condition No.6 was relaxed and it was decided that the issuance of permission was to be based on the basis of Annual Inspection Report of the School and other conditions mentioned in the earlier G.R.

7. On that background the petitioners learnt that their applications for seeking permission to appear for D.Ed. correspondence course were rejected on two grounds (i) that the petitions filed by the persons who have passed B.Ed or holding similar eligibility were pending in the High Court and (2) there was no recommendation from the Controlling Authority of the Divisional Dy. Education Officer for the said course. It was submitted on behalf of the petitioners that they should be given permission subject to final out come of the pending petitions filed by persons holding B.Ed. or similar qualifications from this Court. So far as other objections which were regarding recommendation of the Controlling Authority, it is obvious that that condition will not help any protection due to the clarification issued by G.R.dated

11.7.2000 whereby condition No.6 was relaxed and permission was required to be given on the basis of Annual Inspection Report of the School. Under the circumstances, I do not see any reason why the respondent nos.2 and 3 should not consider the applications made by the petitioners afresh, especially when condition No.6 in the earlier GR dated 2.6.2000 is relaxed by subsequent clarification vide GR dated 11.7.2000.

8. In view of these aspects, I am inclined to allow the petitions with certain directions, hence rule is made absolute. The respondent no.2 is hereby directed to consider the applications of all the petitioners afresh on the basis of relaxed condition No.6 and only on the criteria of reports of the Annual Inspection of the concerned Schools. It is further clarified that the permission if granted shall be subject to final outcome of the writ petitions which are pending in this Court filed by the persons who are holding qualification of B.Ed. or similar qualification. With these directions the Petitions stand disposed off with no order as to costs.

9. The question of permission to be granted to the petitioners shall be decided on the basis of G.R. dated 2.6.2000 by the State Government.